THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.5609/2001

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1. Nuthalapati Siva Prasad and five

others.

..Petitioners

V.

1.The Commissioner of Endowments, Government of Andhra Pradesh, Tilak Road, Hyderabad, and two others.

..Respondents.

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.5609/2001

ORAL ORDER

The petitioners, numbering six (6) assail the fixation of cadre strength of the Archakas of Sri Valeswara Swamy Temple, Chavali village, Vemuru Mandal, Guntur District by the Commissioner of Endowments, Government of Andhra Pradesh, Hydrabad, in his proceedings D.Dis.No.C1/25185/2000 dt. 23-6-2000 as illegal and ultra vires to the provisions of Art. 14 of the Constitution of India and also to the mandatory provisions of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act No.30/1987").

By the impugned proceedings, the Commissioner of Endowments fixed the cadre strength, namely, (1) Upa Mukya Archaka; and (2) Archaka to the temple, Sri Valeswara Swamy Temple, Chavali village.

The petitioners who are six in number contend that they are performing the Archakatvam services according to shift system taking the year as a unit; on the date of abolition of Archakatvam service by Act.30/1987, all the petitioners are working as hereditary Archakas, therefore they shall be taken as Archakas and the respective scales of pay have to be fixed; in utter violation of Act No. 30/87 and guidelines issued by the Supreme Court while upholding the validity of some of the provisions, the above proceedings have been issued fixing the cadre strength only two in number, which are liable to be dismissed.

Opposing the writ petition, the third respondent-Executive Officer of Sri Valeswara Swamy Temple, Chavali village, filed a counter-affidavit stating that the Supreme Court while upholding the validity of Sections 34, 35, 37, 39 and 144 of the Act No. 30/1987 directed the Government of Andhra Pradesh to constitute a committee for rationalisation of pay scales of Archakas in different temples. Accordingly, the Government constituted a committee, which recommended pay scales and also fixation of cadre strength in respect of temples falling under clauses (a) and (b) of Sec. 60 of the Act No. 30 of 1987 subject to certain conditions and principles stated

therein. The Commissioner of Endowments after taking into consideration the G.O.Ms.No.858 Rev (E.I) Dept. dt. 8-10-1997 and the report submitted by the Deputy Commissioner fixed the salaries of Upa Mukya Archakas and Archakas in the scale of pay Rs.1600-40-1920-50-2320-60-2800-70-3220 and Rs.1400-30-1640-40-1960-50-2310-60-2730 respectively. In pursuance of fixation of cadre strength, applications were invited and one Ch. Valeswara Rao was appointed a Upa Mukya Archaka in the regular pay scale from 8-7-2000 onwards. The temple authorities took possession of the lands ad-measuring an extent of Ac.21-00 on 3-7-2000 and after issuing due notice the lands were put to public auction on 14-7-2000 and the bid was knocked down in favour of seven highest bidders for an amount of Rs.2,29,700/- and half of the bid amount of Rs.1,16,250/- was deposited with the temple and the property was delivered on 14-7-2000 and the said lese was approved by the Commissioner of Endowments, Hyderabad. It is categorically stated that none of the petitioners are working as hereditary Archakas as on the date of abolition of hereditary rights in Mirasidars, Archakas etc., through Act No.30 of 1987. Further none of the petitioners are the residents of village Chavali and are all working in different places and never rendered Archakatvam service personally except through deputies. The first petitioner is residing at Vijayawada and working in Ayurveda Kalasala; 2nd petitioner is doing Archakatvam service in Varahapuram village and practicing as RMP doctor at Tenali and was recently shifted to Chavali; 3rd petitioner is also an Archaka in Varahapuram village and 2nd and 3rd petitioners are having lands at Varahapuram village for rendering Archakatvam services; 4th petitioner is working in Agricultural Department at Ongole and the fifth petitioner is a widow aged about 69 years residing at Ramakuru village, Prakasham District and 6th petitioner is working in Andhra Bank, Chirala, Prakasham District. As they are not rendering services as on the crucial date, they are neither entitled to render Archakatvam service nor eligible for being appointed as Arcahkas. None of them applied for

appointment as Archakas pursuant to the notification issued.

The petitioners have not chosen to file any reply denying the allegations specifically made against them that they are not working as on the crucial date.

Hereditary rights in Mirasidars, Archakas and other office holders and servants stand extinguished on commencement of the Act No.30/1987. As per sub-section (2) of Sec. 34 of the Act, every office holder and servant mentioned in clause (a) of sub-section (1) holding office as such on the date of commencement of the Act shall, not withstanding the abolition of the hereditary rights, continue to hold such office or post on payment of only such emoluments and subject to such conditions of service referred to in sub-section (3) and (4) of Section 35.

While upholding the validity of certain sections in the Act No.30/87, the Supreme Court directed the Government of Andhra Pradesh to formulate a scheme. Accordingly, the Government of Andhra Pradesh constituted a committee for rationalisation of pay scales of Archakas in different temples and for fixation of cadre strength. The committee, so constituted fixed the guidelines for fixing the cadre strength basing upon the income of the temple and taking into consideration the guidelines, the Commissioner of Endowments, Hyderabad fixed the cadre strength of Archakas as aforementioned.

Once it is specifically stated that none of the petitioners were working as Archakas as on the crucial date; and they have not applied pursuant to the notification while fixing the cadre strength, and in the absence of denying the allegations levelled in the counter-affidavit by filing a reply or rejoinder, no relief, whatsoever, can be granted to them.

Learned counsel for the petitioners failed to substantiate how fixation of cadre strength as arbitrary and illegal and ultra vires to the provisions of the Act No.30/1987 and rules made thereunder. In the absence of the same, no mandamus as prayed for can be issued.

The writ petition fails and it is accordingly dismissed.

A.GOPAL REDDY,J

Dt.4-7-2007

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